

## PLANNING COMMISSION MINUTES

MARCH 2, 2006

### NEW BUSINESS:

#### Public Hearing and Consideration of Cases

#### DOCKET NO. 9-70-05 & 10-54-05

Change in zoning from R-4 Single Family Residential to R-5 Single Family Residential on property located at 8105 Glaser Lane; also, a related Subdivision Farmgate Springs, containing 4.7 acres, and being in Louisville Metro.

Owner/Applicant:	Farmgate Development, LLC 1717 Alliant Avenue, Suite 9 Louisville, Kentucky 40299
Engineer:	Darrell Wittenauer c/o Sabak, Wilson & Lingo, Inc. 315 W. Market Street Louisville, Kentucky 40202
Existing Use:	Single Family Residential
Proposed Use:	Single Family Residential Subdivision
Council District:	22 - Robin Engel
Staff Case Manager:	<b>Beth Allen, Planning Supervisor</b>

Notice of this public hearing appeared in **The Courier Journal** on February 9, 2006, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

#### **The following spoke in favor of this request:**

Darrel Wittenauer, Sabak, Wilson & Lingo, 315 W. Market Street, Louisville, Kentucky 40202; who submitted renderings of the buildings.

Nick Maxim, 7109 Village Gate Trace, Louisville, Kentucky 40291.

## **PLANNING COMMISSION MINUTES**

**MARCH 2, 2006**

### **NEW BUSINESS:**

#### **Public Hearing and Consideration of Cases**

#### **DOCKET NO. 9-70-05 & 10-54-05**

#### **The following spoke in opposition:**

Betty Engle, 6810 Fernview Road, Louisville, Kentucky 40291-2473.

Steve Hettinger, 6010 Broadhale Drive, Louisville, Kentucky 40291-2306.

Janet R. Vincentie, 8001 Cavewood Court, Louisville, Kentucky 40291-2413.

#### **SUMMARY OF TESTIMONY OF PROPONENTS:**

Mr. Darrell Wittenauer, with Sabak, Wilson & Lingo 315 West Market Street, The Applicant's ( Stonelake homes, Inc. ) representative began with a brief summary of the development: a low-density single family community on a vacant parcel of land, within the neighborhood from district, at the terminus of Village Gate Trace and Farmview Road. The site is 4.69 acres and will contain 21 single family lots with a yield of 4.48 units per acre. The proposal before the commission was a request to approve the zone change from R-4 single family residential to R-5 single family residential.

Mr. Wittenauer stated that the proposed subdivision is an appropriate use for this in three areas; compatibility issues, environmental constraints and transportation concerns.

Mr. Wittenauer spoke to several aspects of compatibility. He stated that the proposed subdivision will retain the neighborhood form district. The low density of the proposed subdivision is consistent with adjoining subdivisions. Mr. Wittenauer pointed out to the north is the existing R-4 subdivision Brynwood, to the south mixed density R-4 & R-5 single family residential lots, to the east the existing R-5 subdivision Farmgate Village and to the west across a R-4 lot contained within the floodplain is the existing R-5 subdivision Village of Farmgate. He continued that the low density subdivision met the recommendations of the Fern Creek Small Area Plan.

He also expressed that not only would the zoning be compatible with adjacent zones but the building types would remain consistent. Building types will be similar to the existing buildings within the Village of Farmgate. Buildings would be brick front with siding on both sides as well as the backs. The Heights of the

## PLANNING COMMISSION MINUTES

MARCH 2, 2006

### NEW BUSINESS:

#### Public Hearing and Consideration of Cases

#### DOCKET NO. 9-70-05 & 10-54-05

buildings would also be similar to that of the Village of Farmgate. Buildings would be a mix of 1, 1 ½ and 2 story floor plans

Along with the consistent use and building types lots would be similar again to the Village of Farmgate. Lots would be 50' to 55' wide and 110' to 130' deep.

Mr. Wittenauer moved on to the environmental issues that affect the site. He outlined that the site has no steep slopes onsite but does have an intermittent blue line stream and a farm pond on it.

Mr. Wittenauer continued to offer that the blue line stream on the east side of the site will be protected by several methods. The limits of disturbance have been established along proposed lots 12-21 to protect the riparian zone of the stream. A Tree Canopy Protection Area has been established along the blue line stream to permanently protect trees along the stream. 25 additional trees are to be planted along Little Cedar Creek to provide additional protection and promote stream health.

Mr. Wittenauer expressed that an unsafe farm pond would be removed. The pond has steep banks that have a considerable amount of construction and farm debris covering them. The farm pond is not large enough to be considered under the jurisdiction of the Army Corps of Engineers. He continues that the pond's dam is degraded and is unsafe to remain. He does offer assurances that any of the drainage from adjoining properties that used the pond or any other part of the site will be accommodated by the onsite drainage system.

As a note Mr. Wittenauer added that in lieu of on site detention or a regional facility fee a contribution will be made to the culvert replacement project on Glaser Lane.

Moving on from environmental issues Mr. Wittenauer addressed transportation concerns regarding the connection to the existing stubs and the inclusion of sidewalks within the development.

Mr. Wittenauer expressed that the connection to both stubs was required per Metro Works, Transportation Planning, Planning & Design staff, the Land Development Code and Comprehensive Plan requirements. He stated that the primary access point would be Village Gate Trace, a 50' right-of-way with 24' of

## **PLANNING COMMISSION MINUTES**

**MARCH 2, 2006**

### **NEW BUSINESS:**

#### **Public Hearing and Consideration of Cases**

#### **DOCKET NO. 9-70-05 & 10-54-05**

pavement. A secondary access point would be Fernview Road, a 60' right-of-way with 24' of pavement. Additionally he added that there would be no direct access to Glaser Lane. Although there is no direct access to Glaser Lane Mr. Wittenauer expressed his belief that the connection of the two stubs would improve emergency response.

Mr. Wittenauer assured the commission that not only would the site have vehicular connectivity but pedestrian. The proposed subdivision contains sidewalks throughout.

In conclusion Mr. Wittenauer assured the commission that the project represented a perfect example of a suburban infill development. It provides street connections to existing subdivisions. It is compatible with the use, zone, scale and density of the existing neighborhood adjacent to it. He continues that the compatibility extends to the architectural design. He continues that Little Cedar Creek will be protected by a Tree Canopy Protection Area and additional plantings. Finally he expressed that both MSD and Public Works had given the plan preliminary approval.

Mr. Wittenauer opened the floor for questions.

During questioning by the commissioners Mr. Wittenauer agreed to have addresses placed on both the mail box and the houses. He continued in agreement with Charles Cash that the developer will meet the addressing standards set forth in the Land Development Code. He also agreed that the one street tree shall be planted per lot and that any additional trees needed to meet the tree canopy requirements would be planted along the riparian zone of Little Cedar Creek as originally proposed. As a point of clarification for Mr. Adams, Mr. Wittenauer explained that the houses will have brick fronts with siding along the remaining sides.

Nick Maxim, an area resident, said this development will make the property values go up in the neighborhood. He said with regards to access, he wouldn't take Fernview or cut through the other existing subdivisions to get where he has to go.

## **PLANNING COMMISSION MINUTES**

**MARCH 2, 2006**

### **NEW BUSINESS:**

#### **Public Hearing and Consideration of Cases**

#### **DOCKET NO. 9-70-05 & 10-54-05**

#### **SUMMARY OF TESTIMONY OF OPPONENTS:**

Betty Engle said she's lived in the Brynwood Subdivision for 32 years. She said they've had a private subdivision for all of these years; and that the connection will open it up for a lot of unwanted traffic. She said the residents and their children can walk and play now without dodging traffic. She said this will decrease their quality of life. She said the entrance should be off of Glaser Lane.

Steve Hettinger said he is the President of Brynwood Subdivision Homeowners Association. He said the Board of Directors are not opposed to this development, but the connection from Fernview Road. He said they're concerned about the increase in traffic into their neighborhood, in addition to construction traffic and debris from construction. He said he realizes the Land Development Code requires connections for traffic dispersion and to increase emergency response times, but said he feels because this development is so small, it is not necessary. He said he is a professional engineer by trade and composed his own analysis regarding increased emergency response times via the new connections. He said this would only increase by 27 seconds, stating that it will not benefit either neighborhood that much. He said they would prefer a pedestrian/bicycle pathway instead of a road connection, which would comply with Cornerstone 2020. He said the pedestrian connection would also allow the applicant to increase the size of the lots making them more compatible to the lots sizes in their subdivision. In response to Mr. Hettinger's concerns, Commissioner Adams said connections are required to create multiple means of ingress and egress. He said the connections would create better access for people traveling to Bardstown Road and Beulah Church Road. Mr. Hettinger explained that people in other subdivisions will be using their subdivision as a cut-through. He said there are a lot of families with children here. Commissioner Howard asked Mr. Hettinger if the streets are private or public right-of-way. Mr. Hettinger said public right-of-way.

Janet R. Vincentie said she has lived here for 30 years; and opposes the road connections because of the additional traffic it will bring into their subdivision. She said she would prefer a fence across Fernview so this development doesn't connect into their subdivision. She said they are only building 21 houses, but they will inconvenience two subdivisions. She said the owner owns two pieces of property on Glaser Lane and questioned why they don't have the entrance there. Commissioner Howard said the applicant could discuss this in rebuttal. Ms. Vincentie said they recently connected another road into their subdivision, which

## PLANNING COMMISSION MINUTES

MARCH 2, 2006

### NEW BUSINESS:

#### Public Hearing and Consideration of Cases

#### DOCKET NO. 9-70-05 & 10-54-05

has already created more traffic. She said she has seen 18-wheelers traveling on these roads. She said a lot of people walk in the area and have children and feels it will make it more dangerous. She said she'd like to see a fence and another house on Fernview.

#### REBUTTAL:

After the opposition spoke, Mr. Wittenauer offered the following remarks in rebuttal. Addressing the lack of connection to Glaser Lane for several reasons, the connection to Glaser Lane is within the floodplain, there are conflicting access point across Glaser Lane, and there is poor site distance along the property at Glaser Lane. Mr. Wittenauer agreed with comments that Mr. Adams made that a connection to Glaser Lane would result in a cut-through. Finally Mr. Wittenauer agreed to limit not only site construction traffic but home construction traffic to the construction entrance from Glaser Lane through proposed lot 11.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the cd of the March 2, 2006 public hearing proceedings.

In a business session subsequent to the public hearing on this request, the Commission took the following action.

On a motion by Commissioner Adams, the following resolution was unanimously adopted:

**WHEREAS**, The Commission finds that based upon testimony and evidence submitted during the public hearing, Land Development and Transportation Committee review, the staff report and the file of the case that the proposal is located in and complies with the Neighborhood Form District, and

**WHEREAS**, The Planning Commission finds that proposal complies with Guideline 3. Compatibility because the proposed R-5 zoning is consistent with the adjacent Village of Farmgate subdivision; the subdivision will be accessed through existing residential subdivisions of comparable density and character;

# **PLANNING COMMISSION MINUTES**

**MARCH 2, 2006**

## **NEW BUSINESS:**

### **Public Hearing and Consideration of Cases**

#### **DOCKET NO. 9-70-05 & 10-54-05**

because the immediate area contains a mix of single family and multifamily zoning both east and west of Little Cedar Creek; because this subdivision will be developed as single family residential homes comparable in size, mass, and scale to those in adjoining subdivisions to the north and south; because the proposed subdivision will be constructed of similar building material with comparable building setbacks to adjoining development; and

**WHEREAS**, the Planning Commission finds that the proposal complies with Guidelines 5. Natural Areas and Scenic and Historic Resources because existing Local Regulatory Floodplain (LRF) have been indicated on the plan and is established at elevation 665; because lowest floor elevations have been established for lots 12 and 13 and minimum opening elevations will be set for lots 14 through 18 in accordance with MSD policy at time of construction plan approval; because there are no slopes in excess of 20 and 30% slopes are present which could impact site development; because a limit of disturbance line is shown on lots 12 through 21 which back up to Little Cedar Creek; because Tree Canopy Protection areas have been established to preserve existing trees along Little Cedar Creek; because 25 additional trees will be planted within the riparian zone of Little Cedar Creek; because there are no historic resources on the property; and

**WHEREAS**, the Planning Commission finds that the proposal complies with Guidelines 7, 8, and 9.1 because proposed streets meet current roadway standards and sidewalks will be provided along internal streets; because the site connects to existing stub streets into the property at Fernview Road and Village Gate Trace, furthering the Comprehensive Plan's goal of promoting connectivity and extending existing street patterns; whereas this connectivity facilitates convenient fire protection and emergency service access; because access to the proposed development is through existing subdivisions of comparable density and use; and

**WHEREAS**, The Planning Commission finds that the proposal complies with Guidelines 10, Livability/Environment because disturbance within the Local Regulatory Flood (LRF) has been minimized; because any limited disturbance within the LRF will be compensated for on 1:1 basis; because Little Cedar Creek is classified as an intermittent blue-line stream and no disturbance to the bed and bank are proposed; because "through" drainage is proposed which will accommodate off-site runoff from adjoining subdivisions, because in lieu of

## PLANNING COMMISSION MINUTES

MARCH 2, 2006

### NEW BUSINESS:

#### Public Hearing and Consideration of Cases

#### DOCKET NO. 9-70-05 & 10-54-05

paying a regional facility fee or providing on-site storm water detention, the developer agrees to provide comparable financial consideration toward improving the Glaser Lane road crossing of Little Cedar Creek as impact mitigation which furthers watershed improvement; and

**WHEREAS**, The Planning Commission finds that the proposal complies with Guideline 13. Landscape Character because Tree Canopy Protection areas are proposed along the Little Cedar Creek riparian corridor, because the developer proposes to plant 25 additional trees within the riparian zone to supplement existing tree canopy; because limits of disturbance lines have been established on Lots 12 through 21 to protect existing riparian vegetation; because the plan meets the provisions of the Land Development Code for Tree Canopy protection; and

**WHEREAS**, The Commission finds that the proposal has received preliminary approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Department of Public Works, and the Metropolitan Sewer District; and

**WHEREAS**, The Commission finds the proposal to be in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of the Louisville/Jefferson County Metro Government that the change in zoning **from R-4 Single Family Residential to R-5 Single Family Residential** on property described in the attached legal description be **APPROVED**.

The vote was as follows:

**YES:** Commissioners Hamilton, Abstain, Adams, Queenan, Jones, Wells-Hatfield and Howard.

**NO:** No one.

**NOT PRESENT FOR THIS CASE:** Commissioners Ernst and Carlson.

**ABSTAINING:** No one.



## PLANNING COMMISSION MINUTES

MARCH 2, 2006

### NEW BUSINESS:

#### Public Hearing and Consideration of Cases

#### DOCKET NO. 9-70-05 & 10-54-05

#### DETAILED DISTRICT DEVELOPMENT PLAN

On a motion by Commissioner Adams, the following resolution was unanimously adopted:

**RESOLVED**, That the Louisville Metro Planning Commission does hereby **APPROVE** the district development plan **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved District Development and Preliminary Subdivision Plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The density of the development shall not exceed 4.48 dwelling units per acre **(21 units on 4.69 acres)**.
3. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
  1. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
  2. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
  3. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.

## PLANNING COMMISSION MINUTES

MARCH 2, 2006

### NEW BUSINESS:

#### Public Hearing and Consideration of Cases

#### DOCKET NO. 9-70-05 & 10-54-05

4. Location of construction fencing for each tree/tree mass designated to be preserved.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
  - a. The development plan must receive full construction approval from ***Louisville Metro Department of Inspections, Permits and Licenses and the Metropolitan Sewer District.***
  - b. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
6. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
7. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
8. All plans setting out Tree Canopy Protection Areas (TCPAs) must contain the following notes:
  - a. **Tree Canopy Protection Areas (TCPAs)** identified on this plan represent individual trees and/or portions of the site designated to

# PLANNING COMMISSION MINUTES

MARCH 2, 2006

## NEW BUSINESS:

### Public Hearing and Consideration of Cases

#### DOCKET NO. 9-70-05 & 10-54-05

meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code and are to be permanently protected. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved development or preliminary subdivision plan.

- b. Dimension lines have been used on this plan to establish the general location of TCPAs and represent minimum distances. The final boundary for each TCPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
- c. Tree protection fencing shall be erected around all TCPAs prior to site disturbance to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed, the fence shall be relocated to protect all remaining trees within that TCPA.
- d. No parking, material storage, or construction activities are permitted within the TCPAs beyond that allowed for preliminary site investigation work.
- e. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed twelve (12) feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at breast height (DBH) shall be removed without prior approval by DPDS.

9. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.

# PLANNING COMMISSION MINUTES

MARCH 2, 2006

## NEW BUSINESS:

### Public Hearing and Consideration of Cases

#### DOCKET NO. 9-70-05 & 10-54-05

- a. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas, open space, TCPAs, and WPAs.
10. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
11. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
12. Trees will be preserved and/or provided on site as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10. Of the required tree canopy for the development, a minimum of one street tree per lot shall be provided. The remainder of the required tree canopy shall be provided along Little Cedar Creek to supplement the riparian vegetation.
13. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the **March 2, 2006** Planning Commission meeting. Houses shall be constructed with all brick fronts at a minimum.

# **PLANNING COMMISSION MINUTES**

**MARCH 2, 2006**

## **NEW BUSINESS:**

### **Public Hearing and Consideration of Cases**

#### **DOCKET NO. 9-70-05 & 10-54-05**

14. Prior to filling the existing pond on site, a geotechnical study shall be performed for review and approval by MSD and Public Works.
15. All construction traffic, including that related to the building of houses within the subdivision, shall access the site from Glaser Lane as shown on the approved Preliminary Plan/District Development Plan. Construction of the house on lot no. 11 shall not occur until that lot is no longer needed for construction access to the rest of the development.

**All binding elements listed above are accepted in total without exception by the entity requesting approval of this (these) development item(s).**

**The vote was as follows:**

**YES: Commissioners Hamilton, Abstain, Adams, Queenan, Jones, Wells-Hatfield and Howard.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioners Ernst and Carlson.**

**ABSTAINING: No one.**



**SABAK, WILSON & LINGO, INC.**  
**ENGINEERS, LANDSCAPE ARCHITECTS & PLANNERS**  
315 WEST MARKET STREET • LOUISVILLE, KENTUCKY 40202  
PHONE: 502-584-6271 • FAX 502-584-6292

December 6, 2005  
Job #2478ddp

***Zoning Description  
Of the  
Development Plan  
Of Farmgate Springs  
(From R-4 to R-5)***

*A certain tract of land in Jefferson County, Kentucky, more particular described as follows:*

*Beginning at a point in the center line of Glaser Road, said point being 1760.63 feet east of the intersection of Watterson Trail and Glaser Road; thence North 1 deg. 18 min. 40 sec. West, 228.42 feet to a point, being the True Point of Beginning; thence continuing North 1 deg. 18 min. 40 sec. West, 728.16 feet to a point; thence South 87 deg. 46 min. 28 sec. West, 290.57 feet to a point; thence South 1 deg. 15 min. 00 sec. East, 653.62 feet to a point; thence South 1 deg. 19 min. 8 sec. East, 57.65 feet to a point; thence South 87 deg. 51 min. 56 sec. East, 211.54 feet to the TRUE POINT OF BEGINNING containing 4.73 acres, more or less.*

*Being a portion of the property conveyed to Farmgate Development, LLC. by deed dated September 26, 2005 of record in Deed Book 8704, Page 103 in the Office of the County Clerk of Jefferson County, Kentucky.*

DEC 06 2005

## PLANNING COMMISSION MINUTES

MARCH 2, 2006

### NEW BUSINESS:

#### Public Hearing and Consideration of Cases

#### DOCKET NO. 10-54-05 & 9-70-05

On a motion by Commissioner Adams, the following resolution was unanimously adopted:

**WHEREAS**, The Commission finds that the proposed subdivision complies with all applicable zoning and subdivision regulations; now, therefore, be it

**RESOLVED**, That the Louisville Metro Planning Commission does hereby **APPROVE** the preliminary plan for Farmgate Springs, Docket No. 10-54-05, marked, "Received March 6, 2006, Planning and Design Services", **subject to the following conditions of approval:**

1. The development shall be in accordance with the approved District Development and Preliminary Subdivision Plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The density of the development shall not exceed 4.48 dwelling units per acre **(21 units on 4.69 acres)**.
3. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
  1. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
  2. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).

## PLANNING COMMISSION MINUTES

MARCH 2, 2006

### NEW BUSINESS:

#### Public Hearing and Consideration of Cases

#### DOCKET NO. 10-54-05 & 9-70-05

3. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
  4. Location of construction fencing for each tree/tree mass designated to be preserved.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
  - a. The development plan must receive full construction approval from ***Louisville Metro Department of Inspections, Permits and Licenses and the Metropolitan Sewer District.***
  - b. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
6. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
7. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
8. All plans setting out Tree Canopy Protection Areas (TCPAs) must contain the following notes:



## PLANNING COMMISSION MINUTES

MARCH 2, 2006

### NEW BUSINESS:

#### Public Hearing and Consideration of Cases

#### DOCKET NO. 10-54-05 & 9-70-05

- a. **Tree Canopy Protection Areas (TCPAs)** identified on this plan represent individual trees and/or portions of the site designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code and are to be permanently protected. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved development or preliminary subdivision plan.
  - b. Dimension lines have been used on this plan to establish the general location of TCPAs and represent minimum distances. The final boundary for each TCPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
  - c. Tree protection fencing shall be erected around all TCPAs prior to site disturbance to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed, the fence shall be relocated to protect all remaining trees within that TCPA.
  - d. No parking, material storage, or construction activities are permitted within the TCPAs beyond that allowed for preliminary site investigation work.
  - e. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed twelve (12) feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at breast height (DBH) shall be removed without prior approval by DPDS.
9. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.

# PLANNING COMMISSION MINUTES

MARCH 2, 2006

## NEW BUSINESS:

### Public Hearing and Consideration of Cases

#### DOCKET NO. 10-54-05 & 9-70-05

- a. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas, open space, TCPAs, and WPAs.
10. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
11. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
12. Trees will be preserved and/or provided on site as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10. Of the required tree canopy for the development, a minimum of one street tree per lot shall be provided. The remainder of the required tree canopy shall be provided along Little Cedar Creek to supplement the riparian vegetation.
13. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 2, 2006

# **PLANNING COMMISSION MINUTES**

**MARCH 2, 2006**

## **NEW BUSINESS:**

### **Public Hearing and Consideration of Cases**

#### **DOCKET NO. 10-54-05 & 9-70-05**

Planning Commission meeting. Houses shall be constructed with all brick fronts at a minimum.

14. Prior to filling the existing pond on site, a geotechnical study shall be performed for review and approval by MSD and Public Works.
15. All construction traffic, including that related to the building of houses within the subdivision, shall access the site from Glaser Lane as shown on the approved Preliminary Plan/District Development Plan. Construction of the house on lot no. 11 shall not occur until that lot is no longer needed for construction access to the rest of the development.

**All conditions of approval listed above are accepted in total without exception by the entity requesting approval of this (these) development item(s).**

**The vote was as follows:**

**YES: Commissioners Hamilton, Abstain, Adams, Queenan, Jones, Wells-Hatfield and Howard.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioners Ernst and Carlson.**

**ABSTAINING: No one.**



**Planning Commission Public Hearing  
Staff Report  
March 2, 2006**



<b>Case:</b>	<b>9-70-05 &amp; 10-54-05 Rezoning Subdivision</b>
<b>Project Name:</b>	<b>Farmgate Springs</b>
<b>Location:</b>	<b>8105 Glaser Lane</b>
<b>Owner/Applicant:</b>	<b>Farmgate Development</b>
<b>Representative:</b>	<b>Sabak Wilson &amp; Lingo, Inc.</b>
<b>Project Size/Area:</b>	<b>4.69 acres/21 lots /Gross density 4.48 du/ac; Net density 5.56 du/ac</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>22 – Robin Engel</b>
<b>Case Manager:</b>	<b>Beth Allen, Planning Supervisor</b>

**Request**

The applicant requests approval of a change in zoning from R-4 Single-Family Residential to R-5 Single-Family Residential on 4.69 acres. The applicant also requests approval to subdivide the property into 21 buildable lots.

**Staff Recommendation**

Staff recommends APPROVAL of the rezoning request, APPROVAL of the development plan, and APPROVAL of the subdivision subject to all binding elements as listed in this report.

**Case Summary/Background**

**Summary**

The applicant proposes a change in zoning from R-4 Single-Family Residential to R-5 Single-Family Residential on 4.69 acres. The site will be subdivided into 21 buildable lots at a gross density of 4.48 du/ac (maximum allowed in R-5 is 7.2 du/ac).

**Site Context**

The property is in the Neighborhood Form District and is zoned R-4. Access to the property is available through two existing stub streets: Village Gate Trace out of the Village of Farmgate R-5 Subdivision to the west, and Fernview Road out of Brynwood R-4 Subdivision to the north. Immediately adjacent to the property on its northeast side is the unrecorded Section 3 of the R-4 zoned Brynwood Subdivision. Also abutting the site on the east is a large, narrow R-4 lot of

approximately 2 acres, which separates the subject site from R-5 zoned Farmgate Meadows subdivision to the east. To the site's south are R-4 lots that front on Glaser Lane and range in size from half an acre to an acre or so.

The north-central portion of the property is occupied by a pond. Little Cedar Creek, an intermittent blueline stream and its associated regulatory floodplain, runs along the eastern border of the subject tract. The site is largely open except along Little Cedar Creek, where there are some trees and lower-level riparian vegetation along the tract's eastern edge.

#### Land Use / Zoning District / Form District

	Land Use	Zoning	Form District
<b>Subject</b>			
<b>Existing</b>	Single Family Residential	R-4	Neighborhood
<b>Proposed</b>	Single Family Residential	R-5	Neighborhood
<b>Surrounding</b>			
<b>North</b>	Single Family Brynwood Subdivision	R-4	Neighborhood
<b>South</b>	Large lot single family fronting on Glaser	R-4	Neighborhood
	Single Family Farmgate Subdivision across Glaser	R-4	Neighborhood
<b>East</b>	Single Family Farmgate Meadows Subdivision	R-5	Neighborhood
<b>West</b>	Sing Family Village of Farmgate Subdivision	R-5	Neighborhood

Note: The following information represents staff analysis of the subject property with respect to site inspection/observation, sound planning practices, and adopted policies and regulations of the jurisdiction. Materials submitted by the applicant or their representative prior to the deadline for filing information related to cases docketed for this hearing were reviewed and specifically applied in the staff review of this request. The board is advised to consider this staff report as well as new information introduced at the hearing in formulating their decision.

#### Staff Findings

##### ***Relationship to Neighborhood, Small Area, Corridor or Other Plan(s)***

The site lies within Quadrant I of the Fern Creek Small Area Plan adopted in 2001. The plan's recommendation for this area is to retain the existing low-density residential land uses. Staff finds that the proposal complies with the Fern Creek Small Area Plan recommendations.

##### ***Relationship to Comprehensive Plan***

##### **Cornerstone 2020 - Policies Addressed in Plan**

<b>Policy</b>	<b>Description of policy</b>	<b>Comments</b>
<b>3.1, 3.2, 3.3</b>	Compatibility, Building Materials, Residential Compatibility	Land use appears compatible

<b>5.1, 10.1, 10.2, 11.9 11.10</b>	Natural features protection, Impact to Watershed, Impact to Regulatory Floodplain, Buffers, Riparian Zones	Proposal appears compatible but building envelopes must be shown on all lots containing floodplain.
<b>1.B.3, 3.23, 7.18, 7.9, 7.10, 8.9, 8.10, 9.1, 10.9, 21.1, 13.3, 13.5, 15.2, 14.3, 14.4, 15.9</b>		Apparent Compliance

## **1. Community Form**

### **a. Compatibility: (3.1, 3.2, 3.3)**

The proposed R-5 density appears to be compatible with surrounding densities and is the development is compliant with the goals of the Neighborhood Form, which is characterized by predominantly residential uses that blend compatibly into the existing landscape and neighborhoods. The applicant has submitted photographs of house types proposed within the development that appear to be compatible with neighboring houses.

### **b. Natural Areas: (5.1)**

Little Cedar Creek, an intermittent stream and its associated floodplain, runs along the eastern edge of the property. Buildable lots along the east side of the property do contain floodplain. The plan indicates that lots 12 and 13 will be raised above the floodplain elevation in accordance with MSD requirements. The remainder of the lots along the east side of the site are occupied by floodplain at the rear of the lots. Limits of disturbance outside of the floodplain have been shown for these lots ensuring no disturbance to the bed and banks of the creek or the associated vegetation in these areas. However building envelopes must be provided on the plan for lots 14 through 19.

## **2. Mobility/Transportation**

### **a. Circulation & Transportation Facility Design: (7.0, 8.8, 8.9, 8.10)**

Access to the property is achieved by extending two existing stub streets from adjacent R-4 and R-5 subdivisions of similar land use intensity. Transportation Plan Review has indicated that the streets meet all sight distance and right-of way dedication requirements.

### **b. Bicycle and Pedestrian Circulation: (9.1)**

Sidewalks are provided along both sides of the streets within the development in accordance with code requirements.

### **3. Livability/Environment**

#### **a. Impact to Regulatory Floodplain, Buffers, Riparian Zones (5.1, 10.1, 10.2, 11.9 11.10)**

As discussed, Little Cedar Creek runs along the eastern edge of the property. The development appears to propose minimal disturbance to the regulatory floodplain and riparian area associated with this stream.

#### **b. Tree Canopy, Corridors (13.3, 13.5)**

As requested by staff, some trees along the Little Cedar Creek riparian corridor have been designated to be preserved as Tree Canopy Protection Areas (TCPAs). The remainder of the required Tree Canopy square footage will be met through tree plantings along the stream corridor. These plantings are required to be shown on a landscape/tree canopy plan that will be reviewed by DPDS staff prior to recording the record plat.

### **Technical Items to be Addressed on Plans**

1. Show building envelopes on all lots containing floodplain (envelopes are missing on lots 14-19).
2. Show existing fire hydrants within 400 feet of the subdivision on the plan.
3. Provide a benchmark description and elevation on the plan.
4. The title block should be corrected to call the plan a District Development & Preliminary Subdivision Plan rather than just a Preliminary Subdivision Plan

### **Standard of Review**

Criteria for granting the proposed rezoning:

1. **The proposed rezoning complies with the applicable guidelines and policies of Cornerstone 202; OR**
2. The existing zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved, which were not anticipated in Cornerstone 2020, which have substantially altered the basic character of the area.

### **Attached Documents / Information**

1. Site location map
2. Applicant's statement of compliance with the Form Area and Zoning Change justification statement
3. Adjacent property owner letters
4. Fern Creek Small Area Plan (applicable portions)

### **Proposed Binding Elements – Docket No. 9-70-05 & 10-45-05**

1. The development shall be in accordance with the approved District Development and Preliminary Subdivision Plan, all applicable sections of the

Public Hearing Date: March 2, 2006

9-70-05 & 10-54-05

Page 4 of 8



Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The density of the development shall not exceed 4.48 dwelling units per acre **(21 units on 4.69 acres)**.
3. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
  1. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
  2. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
  3. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
  4. Location of construction fencing for each tree/tree mass designated to be preserved.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
  - a. The development plan must receive full construction approval from ***Louisville Metro Department of Inspections, Permits and Licenses and the Metropolitan Sewer District***.
  - b. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
  - a. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is

completed. No parking, material storage, or construction activities shall be permitted within the fenced area."

6. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
7. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
8. All plans setting out Tree Canopy Protection Areas (TCPAs) must contain the following notes:
  - a. **Tree Canopy Protection Areas (TCPAs)** identified on this plan represent individual trees and/or portions of the site designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code and are to be permanently protected. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved development or preliminary subdivision plan.
  - b. Dimension lines have been used on this plan to establish the general location of TCPAs and represent minimum distances. The final boundary for each TCPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
  - c. Tree protection fencing shall be erected around all TCPAs prior to site disturbance to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed, the fence shall be relocated to protect all remaining trees within that TCPA.
  - d. No parking, material storage, or construction activities are permitted within the TCPAs beyond that allowed for preliminary site investigation work.
  - g. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more

than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed twelve (12) feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at breast height (DBH) shall be removed without prior approval by DPDS.

10. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  - a. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas, open space, TCPAs, and WPAs.
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13. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the **March 2, 2006** Planning Commission meeting.
15. Prior to filling the existing pond on site, a geotechnical study shall be performed for review and approval by MSD and Public Works.

All binding elements stated in this report are accepted in total without exception by the entity requesting approval of this (these) development item(s).

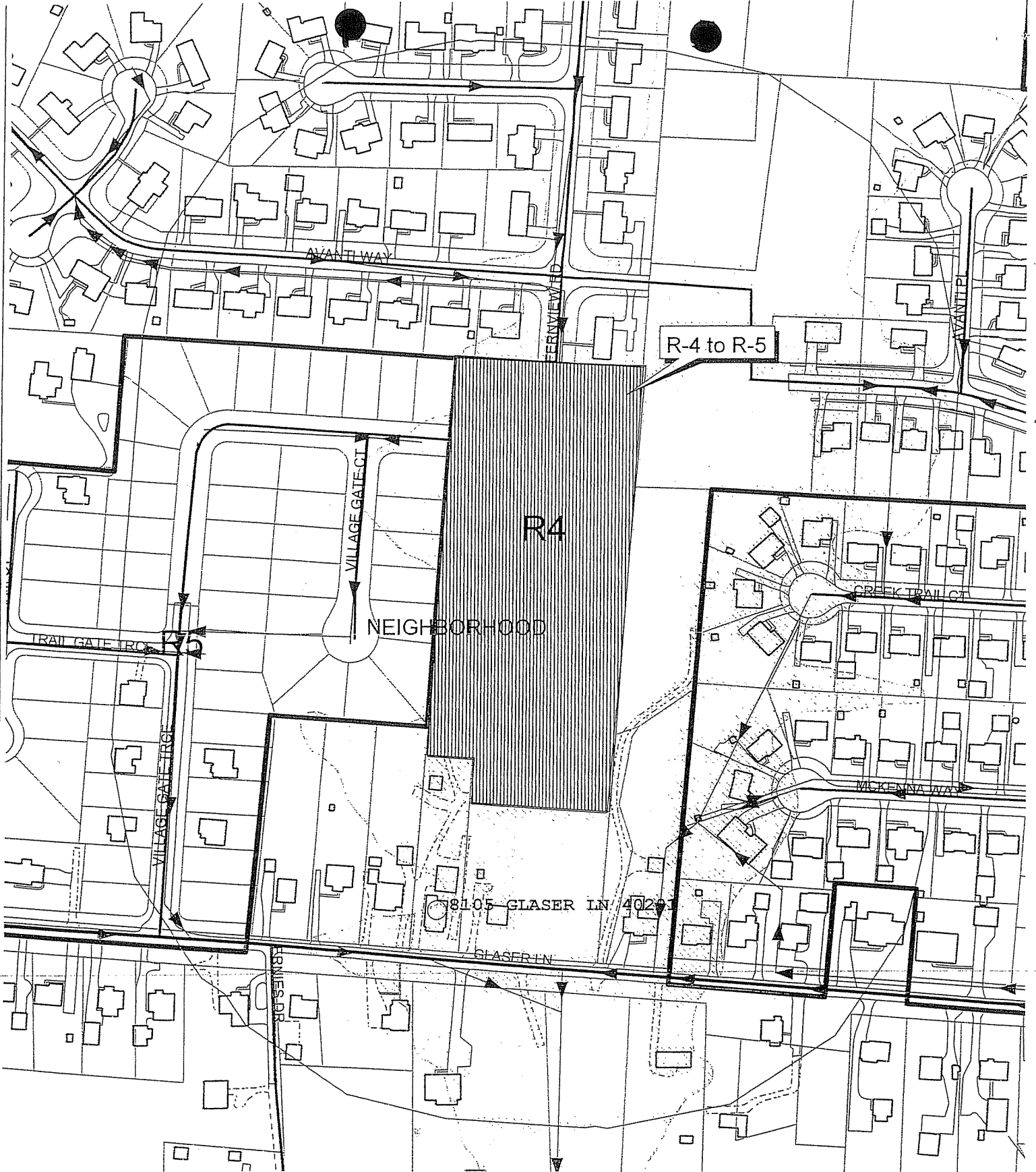
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**Notification**

<b>Date Sent</b>	<b>Description</b>	<b>Recipients</b>
12/29/05	Notice of LD&T meeting	First and second tier adjacent property owners, neighborhood group listing for Council District 19
1/31/06	Notice of Public Hearing mailed	First and second tier adjacent property owners, neighborhood group listing for Council District 19
2/9/06	Legal ad placed in Courier Journal and sign posted on subject property	General Public



Pre-App Tax Map

Proposed Single Family Residential  
8105 Glaser Lane  
R-4 to R-5  
Zoning Pre-App 66-05

200

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Copyright (c) 2004, LOUISVILLE AND JEFFERSON  
COUNTY METROPOLITAN SEWER DISTRICT (MSD),  
LOUISVILLE WATER COMPANY (LWC) and  
LOUISVILLE METRO GOVERNMENT  
All Rights Reserved



DEC 06 2005

0 P19-#10-055



**BINDING ELEMENTS/CONDITIONS OF APPROVAL****DOCKET NO. 9-70-05 & 10-54-05**

1. The development shall be in accordance with the approved District Development and Preliminary Subdivision Plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
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**All binding elements/conditions of approval listed above are accepted in total without exception by the entity requesting approval of this (these) development item(s).**

The above binding elements of the district development plan are agreed to by the property owner March 16<sup>th</sup>, 2006.

  
\_\_\_\_\_  
OWNER OR OWNER'S AUTHORIZED REPRESENTATIVE